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[1] **Price**
[2] you have that page in front of you?
[3] **A:** Yes.
[4] **Q:** There is a typewritten name Peter O.
[5] Price. Do you recognize the signature above
[6] that name as yours?
[7] **A:** Yes.
[8] **Q:** And there's a date of I believe
[9] 12/6/95. Does that appear to be your
[10] handwriting?
[11] **A:** That's correct.
[12] **Q:** If you will turn to page 4 of the
[13] exhibit. For purposes of convenience let me
[14] refer you to the actual page of the substantive
[15] document, which is page 3.
[16] **A:** Yes.
[17] **Q:** Do you have that before you?
[18] **A:** I do.
[19] **Q:** If you will look four lines up,
[20] actually six lines up there's a sentence that
[21] begins "if Liberty cannot meet its customer's
[22] demands for service" -
[23] **A:** Yes.
[24] **Q:** - "those customers will cancel
[25] their contracts"?

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[1] **Price**
[2] **A:** Yes.
[3] **Q:** Can you explain to me what you meant
[4] by that sentence?
[5] **A:** I meant that if Liberty cannot meet
[6] its customers' demands for service those
[7] customers will cancel their contracts with
[8] Liberty and return to Cablevision.
[9] **Q:** By customers, who did you mean?
[10] **A:** Our subscribers as defined by the
[11] FCC.
[12] **Q:** And can you elaborate on what you
[13] mean "as defined by the FCC"?
[14] **A:** We already covered this an hour
[15] ago. In great detail.
[16] **Q:** You will agree with me this page
[17] makes no reference to any FCC rules and
[18] regulations, does it?
[19] **A:** No, it does not, except it's a FCC
[20] request in FCC language according to FCC
[21] procedures. Other than that it doesn't refer to
[22] the FCC.
[23] **MR. HOLT:** Mr. Beckner, can I ask
[24] you to mark as Price Exhibit G a five-page
[25] document on the letterhead of Pepper &

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[1] **Price**
[2] Corazzini dated November 22, 1995.
[3] **MR. BECKNER:** I have that and I'm
[4] going to give one copy to the reporter and
[5] a courtesy copy to Mr. Begleiter.
[6] **MR. BEGLEITER:** I'm giving all the
[7] originals back to the reporter. Is that
[8] the procedure?
[9] **MR. HOLT:** Fine.
[10] **MR. BEGLEITER:** Original except for
[11] the ones that belong to Mr. Beckner. He
[12] wants his back. How about mine? Can I
[13] keep mine?
[14] (Price Exhibit G, letter dated
[15] December 22, 1995, from Michael Lehmkuhl
[16] to the Federal Communications Commission,
[17] was marked for identification.)
[18] **Q:** Do you have that document before
[19] you, Mr. Price?
[20] **A:** I do, sir.
[21] **Q:** Can you turn to the last page of the
[22] document?
[23] **A:** I am there.
[24] **Q:** The typewritten page there,
[25] typewritten name of Peter O. Price. Do you

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[1] **Price**
[2] recognize the signature appearing above that
[3] name as yours?
[4] **A:** Yes.
[5] **Q:** There appears to be a date written,
[6] 12/20/95. Does that appear to be your
[7] signature?
[8] **A:** It does.
[9] **Q:** Turn back to page 4.
[10] **MR. BEGLEITER:** Is there a numbered
[11] page?
[12] **MR. HOLT:** Page 2.
[13] **MR. BEGLEITER:** Thank you.
[14] **Q:** Let me say generally this - let's
[15] turn back, I'm sorry, let's turn back to page 1
[16] first?
[17] **MR. SPITZER:** Page 1 or page 3?
[18] **MR. HOLT:** Page 1.
[19] **A:** Yes, sir.
[20] **Q:** It indicates this is an application
[21] for an STA to operate a path from the
[22] above-referenced facility which is Boulevard
[23] East, North Bergen to the Lincoln Harbor Yacht
[24] Club, correct?
[25] **A:** I'm trying to see which page.

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- [1]
[2] Q: Page 1.
[3] MR. BECKNER: You're referring to
[4] page 1, by that you mean the Pepper &
[5] Corazzini letter itself?
[6] MR. HOLT: I'm sorry, yes.
[7] MR. BEGLEITER: The cover page.
[8] A: The cover page, all right, let me
[9] get back there. Yes.
[10] Q: Now at the time that you signed this
[11] STA request was it your understanding that the
[12] purpose of this request was to seek an STA to
[13] operate a path from 8200 Boulevard East to
[14] Lincoln Harbor Yacht Club?
[15] A: That's what it says, yes.
[16] Q: That was your understanding at the
[17] time you signed it?
[18] A: Yes.
[19] Q: Turn to page 4.
[20] A: Which is page 2?
[21] Q: Yes, it's page 2 on the document.
[22] In the middle of the page.
[23] A: Yes.
[24] Q: There is a sentence that begins
[25] "While this in no way justifies the premature

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- [1] activation of additional microwave paths in this
[2] instance"?
[3] A: Yes.
[4] Q: Can you explain to me what you meant
[5] by that sentence?
[6] A: I mean that we intend to not
[7] prematurely activate any additional microwave
[8] paths.
[9] Q: Well, the sentence indicates that
[10] you have activated a microwave path in this
[11] instance prematurely, correct?
[12] A: I don't think so. It says that it
[13] doesn't justify. Look, to cut through some of
[14] this bull, maybe we had, but it doesn't say
[15] that.
[16] Q: Well my question is this represents
[17] to the Lincoln Harbor Yacht Club and service
[18] provided to Lincoln Harbor Yacht Club, and I'm
[19] asking you at the time you signed this STA
[20] request it was your understanding that Liberty
[21] had prematurely activated service to that
[22] facility, using its microwave path?
[23] MR. BEGLEITER: I'm going to object
[24] to the form of the question.
[25]

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- [1]
[2] Q: Do you understand the question, sir?
[3] A: No, I don't.
[4] Q: Well, let me rephrase it. At the
[5] time you signed this STA request was it your
[6] understanding that Liberty had prematurely
[7] commenced or prematurely activated a microwave
[8] path between 8200 Boulevard East and the Lincoln
[9] Harbor Yacht Club?
[10] A: In order to answer that I'd have to
[11] go back, determine if this was one of the paths
[12] that was prematurely activated, and if we then
[13] went back and asked for FCC permission to set
[14] the authority straight and ask for an STA to
[15] cover the path that was prematurely activated.
[16] But I can't attest to that right now because I
[17] don't have that paper trail in front of me. I
[18] guess that's what you're getting at.
[19] Q: Do you recall taking any steps of
[20] that nature to confirm the accuracy of this
[21] information before you signed the STA?
[22] MR. BEGLEITER: I don't understand
[23] what, can you repeat the question?
[24] MR. HOLT: He just described a
[25] number of things that he would have had to

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- [1] have done in order to confirm whether or
[2] not they commenced or activated a
[3] microwave path prematurely in this
[4] instance. I'm asking him if he recalls
[5] taking any of those steps prior to signing
[6] the STA request.
[7] MR. BEGLEITER: Are you talking
[8] about with regard to any potential
[9] premature activation to Lincoln Harbor
[10] Yacht Club?
[11] MR. HOLT: Focusing on Lincoln
[12] Harbor Yacht Club, and there is an
[13] application at this time pending for a
[14] microwave path that involved service to
[15] Lincoln Harbor Yacht Club. I'm asking him
[16] whether he recalls taking any steps prior
[17] to signing this STA request to determine
[18] whether or not Liberty had activated
[19] service using the STA.
[20] A: You got presumption on top of
[21] presumption and too many ifs in there for me to
[22] answer it.
[23] Q: I'm asking you to relate to me what
[24] efforts you made prior to signing this STA
[25]

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(1) **Price**
(2) request to determine whether or not Liberty had
(3) activated service between, using a microwave
(4) path between Lincoln Harbor and 8200 Boulevard
(5) East without FCC authorization, a very simple
(6) question.
(7) **A:** We had at this time a very detailed
(8) compliance procedure in effect, and we were
(9) following the compliance procedure to the letter
(10) that I gave you.
(11) **Q:** I'm quite certain about that.
(12) **A:** And I don't know where this is, I
(13) don't have enough facts in front of me.
(14) **Q:** Is this the compliance procedure
(15) that you described earlier?
(16) **A:** Yes.
(17) **MR. BEGLEITER:** Chris, I'm really
(18) confused.
(19) **A:** I don't have enough of the facts.
(20) I'm not familiar with what triggered this
(21) particular STA application. I just don't have,
(22) I'm trying to give an intelligent answer but I
(23) don't have enough tools to do it.
(24) **MR. SPITZER:** Is there any
(25) indication, Mr. Holt, that Appendices A

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(1) **Price**
(2) and B, Exhibit 432, there is premature
(3) service on this path?
(4) **MR. HOLT:** I'm asking for the
(5) witness' understanding as regarding what
(6) the sentence meant at the time he signed.
(7) **MR. SPITZER:** I think his answer was
(8) that sentence did not indicate to him
(9) there was premature service. You asked a
(10) question which did not have foundation.
(11) If you can establish that foundation
(12) exists, maybe this is fruitful to pursue.
(13) Appendices A and B, which define the - do
(14) not list the path as something which is a
(15) path that had premature service. So
(16) that's why we're asking you that question.
(17) **MR. HOLT:** Your question is noted
(18) for the record. I have my response.
(19) **MR. SPITZER:** Just trying to help
(20) you out.
(21) **MR. BEGLEITER:** Okay, fine.
(22) **MR. HOLT:** I will note that the
(23) application on STA request that we're
(24) discussing here involved an application
(25) that is at issue in this proceeding.

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(1) **Price**
(2) **MR. SPITZER:** It's a hard wire.
(3) **MR. HOLT:** I'm seeking to determine
(4) whether or not Mr. Price had any
(5) understanding at the time he filed his STA
(6) request as to whether or not Liberty had
(7) commenced service without authorization
(8) using a microwave path between Lincoln
(9) Harbor and 8200 Boulevard East.
(10) **A:** I was aware of all the locations, to
(11) the best of my knowledge on that date where we
(12) had activated service prematurely. If this was
(13) one of them I don't recall.
(14) **MR. BEGLEITER:** Chris.
(15) **MR. HOLT:** That's fine. That's your
(16) answer.
(17) **MR. BEGLEITER:** To be fair to the
(18) witness, who has only looked at it
(19) briefly, shouldn't he be pointed to
(20) paragraph 2?
(21) Chris, Mr. Holt, do it your own way,
(22) but I'm saying this witness is getting a
(23) lot of documents, he's looking at them
(24) very quickly. If there is a paragraph
(25) that concerns your answer, I would expect

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(1) **Price**
(2) at least as a courtesy that it be pointed
(3) to.
(4) **MR. HOLT:** There isn't, because this
(5) is the first time that I heard that they
(6) commenced unauthorized service between the
(7) two facilities.
(8) **A:** This is the first I'm hearing about
(9) it too.
(10) **MR. HOLT:** I'm asking the witness.
(11) **Q:** Mr. Price, an STA was filed by the
(12) Commission which indicated you had -
(13) **A:** No, no, stop, stop.
(14) **Q:** I'm wondering -
(15) **A:** Stop, stop. You're saying that I
(16) recognized that we had commenced unauthorized
(17) service to this location. Where do you get that
(18) conclusion from? Certainly not from my
(19) testimony.
(20) **Q:** My reading of your STA request.
(21) **MR. SPITZER:** Where?
(22) **A:** Point me to it. Help me.
(23) **MR. SPITZER:** That was the question
(24) we asked before when you asked Mr. Price
(25) whether his sentence meant there was

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[1] *Price*
[2] premature service, and the answer I
[3] believe was that sentence didn't say that
[4] to him. If you look at the second,
[5] another paragraph in there, there is a
[6] indication there is hard wire service, not
[7] premature microwave service. That's the
[8] point we've been trying to make to you.
[9] That's why on the appendices attached to
[10] the HDO it lists there is a hard wire.
[11] **MR. HOLT:** I appreciate counsel's
[12] testimony, but it's not responsive to my
[13] question.
[14] **MR. SPITZER:** It wasn't meant to
[15] be.
[16] **A:** I think counsel was pointing out I
[17] already answered your question fairly
[18] definitively and I did not give you anything in
[19] my answer that justified your conclusion.
[20] **MR. HOLT:** I will move to strike,
[21] there is no question pending.
[22] **A:** There are about 20 questions
[23] pending. You keep asking them and I give you
[24] the answers and you don't accept it.
[25] **MR. HOLT:** Move to strike that as

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[1] *Price*
[2] non-responsive.
[3] **Q:** Mr. Price, would you wait for me to
[4] ask a question before providing me with a
[5] speech?
[6] **MR. SPITZER:** Its 11:57, Mr. Holt,
[7] Swiss Army time.
[8] **Q:** Mr. Price, has this compliance
[9] program that you discussed earlier been reduced
[10] to writing?
[11] **A:** Yes, it has.
[12] **Q:** In the form of a specific document
[13] that describes the program?
[14] **A:** Yes.
[15] **Q:** To your knowledge has that document
[16] been produced in this proceeding?
[17] **A:** Yes. I guess you weren't there.
[18] **Q:** Do you confirm that?
[19] **MR. SPITZER:** It was produced,
[20] Mr. Holt. If you had attended the
[21] deposition you would be aware of that
[22] fact.
[23] **MR. HOLT:** Mr. Beckner, can you
[24] confirm that you have a copy of that?
[25] **MR. BECKNER:** It was a two-page, as

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[1] *Price*
[2] I recall, a two-page form that was
[3] described by the witness in his
[4] testimony. I think it was Mr. Price, as a
[5] matter of fact. It might have been
[6] Mr. Berkman. I would not say that it
[7] described the program. I would say that
[8] it was part of the program. It was an
[9] example as parts of the program.
[10] **THE WITNESS:** That's correct.
[11] **MR. HOLT:** A document that was an
[12] example of part of the program was
[13] produced.
[14] **Q:** Has the program been reduced to
[15] writing in a form more extensive than the
[16] document that was produced to us? I guess my
[17] question is, is it more than a two-page
[18] document?
[19] **A:** There are forms and various, there
[20] are forms that the procedure requires to be
[21] filled out, if you want to consider them part of
[22] the process, sure.
[23] **Q:** Is there any written set of
[24] procedures, guidelines for individuals to follow
[25] in order to know how to proceed under the

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[1] *Price*
[2] compliance program?
[3] **A:** That's what the two-page document
[4] describes, tells everybody what to do and how
[5] and when to do it.
[6] **MR. SPITZER:** There was testimony at
[7] Mr. Berkman's deposition with respect to
[8] this form of request. A formal request
[9] was made and it was produced, Mr. Holt.
[10] **MR. HOLT:** I understand.
[11] **MR. SPITZER:** Your glass slipper is
[12] about to turn into pumpkins.
[13] **MR. HOLT:** Just reviewing my notes
[14] to determine if there is any follow-up.
[15] (Pause in the proceedings.)
[16] **MR. HOLT:** I think that concludes my
[17] questioning. Thank you for your time.
[18] **THE WITNESS:** You're quite welcome.
[19] Thank you. Have a good weekend.
[20] (Discussion off the record.)
[21] (Time noted: 12:00 p.m.)
[22]
[23]
[24]
[25]

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[1] Price
[2]
[3] I, the witness herein, having read the foregoing
[4] testimony, do hereby certify it to be a true and
[5] correct transcript, subject to the corrections,
[6] if any, shown on the attached page.

[10] PETER O. PRICE

[11]
[12]
[13] Subscribed and sworn to
[14] before me this day
[15] of 1996.

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[1] Price
[2] CERTIFICATE
[3]
[4] STATE OF NEW YORK)
:ss
COUNTY OF NEW YORK)

[5]
[6]
[7] I, JANICE ZWAIL, a Shorthand
[8] Reporter and Notary Public within and for the
[9] State of New York, do hereby certify:
[10] That PETER O. PRICE, the witness
[11] whose deposition is hereinbefore set forth, was
[12] duly sworn by me and that such deposition is a
[13] true record of the testimony given by such
[14] witness.

[15] I further certify that I am not
[16] related to any of the parties to this action by
[17] blood or marriage and that I am in no way
[18] interested in the outcome of this matter.

[19] In witness whereof, I have hereunto
[20] set my hand this day of 1996.

[23] JANICE ZWAIL

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[12] Price Exhibit B, Riva Points 23
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[13] Price Exhibit C, four-page document 27
entitled "Private Cable Agreement,"
[14] Price Exhibit D, Federal 83
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[15] Price Exhibit E, Federal 99
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[17] Price Exhibit F, letter dated 102
December 8, 1995, from Michael Lehmkuhl to the
[18] Federal Communications Commission, with
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[19] Price Exhibit G, letter dated 105
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Lawyer's Notes

Federal Communications Commission

Docket No. 96-41 Exhibit No. 11

Presented by Liberty / Bureau

Disposition { Identified ☒
Received ☒
Rejected ☐

In The Matter Of:

In re Applications of
Liberty Cable Co., Inc. ^{Date} 1-10-97

Peter Price

Vol. 2, August 1, 1996

Greenhouse Reporting, Inc.
Computerized Litigation Support
363 Seventh Avenue
20th Floor

New York, NY 10001
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[1]
[2]
[3] FEDERAL COMMUNICATIONS COMMISSION
[4]
[5] In re Applications of
[6] LIBERTY CABLE CO., INC.
[7] For Private Operational Fixed Microwave
Service Authorizations and Modifications.
[8]
[9]
[10] August 1, 1996
[11] 10:24 a.m.
[12]
[13] Continued deposition of PETER PRICE,
[14] taken by Time Warner Cable of New York City,
[15] pursuant to Adjournment, at the offices of
[16] Constantine & Partners, 909 Third Avenue, New
[17] York, New York, before Jane M. Teller, a
[18] Shorthand Reporter and Notary Public within and
[19] for the State of New York.
[20]
[21] GREENHOUSE REPORTING, INC.
[22] 363 Seventh Avenue - 20th Floor
New York, New York 10001
[23] (212) 279-5108
[24]
[25]

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[19]
[20]
[21]
[22]
[23]
[24]
[25]

- Page 125

[1] Price
[2] PETER PRICE, having been previously duly sworn
[3] by a Notary Public, was examined and
[4] testified further as follows:
[5] (Price Exhibit 16, production
[6] numbers CP 016123 through CP 16138, was
[7] marked for identification.)
[8] (Price Exhibit 17, production
[9] numbers CP 016139 through CP 016164, was
[10] marked for identification.)
[11] (Price Exhibit 18, production
[12] numbers CP 016165 through 016196, was
[13] marked for identification.)
[14] (Price Exhibit 19, production
[15] numbers CP 016197 through CP 016224, was
[16] marked for identification.)
[17] (Price Exhibit 20, production
[18] numbers CP 016256 through CP 016277, was
[19] marked for identification.)
[20] (Price Exhibit 21, production
[21] numbers CP 017004 through CP 017014, was
[22] marked for identification.)
[23] (Price Exhibit 22, production
[24] numbers CP 017015 through CP 017026, was
[25] marked for identification.)

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(1) *Price*
(2) EXAMINATION Continued
(3) BY MR. BECKNER:
(4) Q: Good morning, Mr. Price. As you
(5) know, we've met before. My name is Bruce
(6) Beckner, representing Time Warner Cable of New
(7) York City. And just for the record, let me give
(8) Mr. Weber a chance to identify himself on the
(9) record also.
(10) MR. WEBER: I'm Joseph Weber,
(11) representing the Wireless
(12) Telecommunications Bureau of the FCC.
(13) MR. BECKNER: And I will state for
(14) the record that I have spoken with
(15) Christopher Holt of the Mintz Levin firm
(16) representing Cablevision in this
(17) proceeding, who has indicated to me that
(18) they are not going to participate by
(19) asking questions. And they acknowledge
(20) that they have had the opportunity to
(21) participate.
(22) Q: Mr. Price, just again for the
(23) record, we are considering this a continuation
(24) of your deposition that I think was taken last
(25) month, and so you understand that you're still

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(1) *Price*
(2) under oath and you're still required to testify
(3) truthfully to the best of your knowledge and
(4) belief; is that correct?
(5) A: Yes, I do.
(6) Q: All right, sir. And again, I also
(7) want to remind you that since you are under oath
(8) and are held responsible for your answers, if
(9) there's something about a question that I ask
(10) you that you don't understand, please feel free
(11) to tell me that you don't understand the
(12) question and I will try to explain it or
(13) rephrase it.
(14) A: I will.
(15) Q: Thank you.
(16) As a preliminary matter, Mr. Price,
(17) since the last time you were deposed in this
(18) proceeding, did you have occasion to review any
(19) written materials relating to the proceeding,
(20) other than your own deposition transcripts?
(21) MR. BECKNER: It's a yes or no
(22) question.
(23) MR. SPITZER: What's ambiguous is
(24) "materials relating to the proceeding."
(25) I do not know what you mean by that

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(1) *Price*
(2) because this is an ongoing business
(3) with - I don't mean to be obstreperous
(4) and begin on the wrong foot, but I don't
(5) understand what the scope of that question
(6) covers.
(7) MR. BECKNER: You object to the use
(8) of the phrase "materials"?
(9) MR. SPITZER: "Relevant."
(10) MR. BECKNER: So noted, and I will
(11) modify the question.
(12) Q: Mr. Price, other than reviewing the
(13) transcript of your own deposition in this
(14) proceeding, have you reviewed the transcripts of
(15) any other witness' depositions in this
(16) proceeding?
(17) A: No, I have not.
(18) Q: Have you discussed with any other
(19) persons who, to your knowledge, testified on
(20) deposition in this proceeding anything of the
(21) substance of their testimony?
(22) A: No, I have not.
(23) Q: Have you discussed with your counsel
(24) the substance of any witness' testimony in this
(25) proceeding other than your own?

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(1) *Price*
(2) A: No, I have not.
(3) Q: Not long ago there was a joint
(4) motion for summary decision filed by Liberty and
(5) the Wireless Telecommunications Bureau in this
(6) proceeding. What I'd like to know is whether or
(7) not you had occasion to read, either in draft or
(8) final form, the written memorandum that was
(9) submitted in support of that joint motion. I
(10) have a copy of it if you'd like me to show it to
(11) you.
(12) A: I don't believe I did. I may have
(13) seen it, but I didn't read it.
(14) Q: Let me show you my copy of it. If
(15) you need to flip through it, you can. I'll note
(16) for the record that it has near the end some
(17) comments on the margin by me. But I'll show you
(18) a copy of what I'm going to represent to you is
(19) the joint motion and ask if that refreshes your
(20) recollection about whether or not you've seen
(21) the document or a copy of it before.
(22) A: No, I don't recall seeing it. I may
(23) have, but someone may have passed it under my
(24) nose, but if they did I don't recall and I
(25) certainly haven't read it through.

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[1] *Price*
[2] Q: Fine. Thank you.
[3] I'm going to show you what's been
[4] marked by the court reporter as Exhibit 16 to
[5] your deposition, and it's a memorandum addressed
[6] to the initials HJB, 1808 file, and it's dated
[7] April 5, 1995, and the first page has production
[8] number of CP 016123 and the last page has a
[9] production number of CP 016138.
[10] MR. SPITZER: Do you have a copy for
[11] us?
[12] MR. BECKNER: That's in your stack
[13] there. And I think these are in order, so
[14] it should be the top of your stack.
[15] MR. WEBER: I have a different last
[16] page.
[17] MR. BECKNER: There were two of
[18] these that were produced.
[19] Off the record.
[20] (Discussion off the record.)
[21] Q: Mr. Price, you've been handed what's
[22] been marked as Exhibit 16 to your deposition,
[23] and after you've had whatever time you need to
[24] look at the exhibit, can you tell me whether or
[25] not you recall having seen it before, or any

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[1] *Price*
[2] portion of it.
[3] A: No, I don't recall ever having seen
[4] it before or any portion of it.
[5] Q: Can you tell me who Steve Coran is?
[6] A: I have no idea.
[7] Q: Not a person who to your knowledge
[8] worked for Liberty?
[9] A: I never heard the name.
[10] Q: The first page of the memorandum
[11] refers to a, quote, cross-check of Steve Coran's
[12] inventory listing with what appears to be the
[13] Pepper & Corazzini listing. Are you aware of
[14] whether or not there was any cross-checking of
[15] license listings that was performed for Liberty
[16] on or about the date of this memorandum, sir?
[17] A: No.
[18] Q: Don't know whether there was
[19] anything like that or not?
[20] A: No, I do not.
[21] Q: Do you know as a general matter
[22] whether or not Liberty ever, prior to let's say
[23] May 1st, 1995, performed any kind of audit or
[24] cross checking of its records of FCC licenses as
[25] compared to the records that its counsel had of

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[1] *Price*
[2] FCC licenses?
[3] A: I don't know. But I know that early
[4] on I had asked our engineering people to
[5] coordinate FCC filings with Washington counsel
[6] and to provide some kind of reconciliations of,
[7] you know, of that, and create a process, but
[8] after I asked them to do that, from time to time
[9] whether they did or didn't and when they did or
[10] didn't and who did or didn't I have no idea.
[11] Q: So if that process happened, it took
[12] place outside of your knowledge; is that a fair
[13] statement?
[14] A: That's correct.
[15] Q: And when you said in your answer to
[16] the previous question early on, would that have
[17] been approximately the year 1992?
[18] A: That's correct.
[19] Q: I recall, I think, you testifying
[20] about that in a previous portion of this
[21] deposition?
[22] A: That's correct.
[23] Q: I'm going to show you a document
[24] that's been marked as Exhibit 17 to your
[25] deposition. It is a memorandum from Mike

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[1] *Price*
[2] Lehmkuhl, addressed to you, Mr. Nourain, Thomas
[3] Courtney and Comsearch and something called 1808
[4] Correspondence File, dated February 24, 1995.
[5] Production number CP 016139, on the first page
[6] and production number CP 016164 on the last page
[7] with numbers consecutively in between.
[8] First I'd like, after you take
[9] whatever time you need to look at it, can you
[10] tell me if you recall having seen the document
[11] before or having seen a portion of the document
[12] before.
[13] A: I saw it a couple of days ago;
[14] counsel showed it to me.
[15] Q: And prior to that?
[16] A: I don't recall ever seeing it
[17] before.
[18] Q: The time when you did see it about
[19] which you just testified, was that in
[20] conjunction with your execution of a declaration
[21] filed in support of a paper to Liberty filed in
[22] this proceeding?
[23] A: I believe it was.
[24] Q: Do you have any reason to believe
[25] that this document was not in fact sent to you?

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(1) *Price*
(2) A: It has my name on it and it's dated
(3) and it's on our law firm stationery, so I
(4) presume it was sent.
(5) Q: Do you recall around the time of the
(6) date on this document, that is, February 24,
(7) 1995, whether or not you had occasion to discuss
(8) with Mr. Lehmkuhl or any other lawyer at his
(9) firm the general subject of the status of
(10) Liberty's FCC licenses or applications?
(11) A: No, I don't recollect any
(12) conversation like that.
(13) Q: From time to time during the year
(14) 1995 and the year proceeding, did you
(15) occasionally receive memoranda or other kinds of
(16) correspondence from Pepper & Corazzini?
(17) A: Great quantities.
(18) Q: And was that material usually
(19) addressed to you?
(20) A: It was usually addressed to me or my
(21) name was on it because many of the license
(22) applications, for example, would be sent to me
(23) for signature or file copies sent to me and I
(24) would pass them on to the appropriate people.
(25) So my office was often a conduit for information

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(1) *Price*
(2) that was moving through the system.
(3) Q: I think you testified previously
(4) that during 1995 and 1994, the physical
(5) location, that is, the address of your office
(6) and Mr. Nourain's office were different?
(7) A: That's correct.
(8) Q: So that, for example, if someone
(9) wanted to send through the mail or other
(10) delivery service a document to Mr. Nourain, it
(11) would not even come to the building where your
(12) office was located, it would go to a completely
(13) different building; is that correct?
(14) A: Often it would come to our office
(15) because Liberty's stationery, I think all of it,
(16) in fact, had 575 Madison on it. I'm not even
(17) sure that the technical operations center had
(18) any station there with their address on it.
(19) Maybe they did. But that's why being the office
(20) of record on most of our letterhead and invoices
(21) and everything else, I would often get material
(22) that was intended to go to marketing or
(23) operations or elsewhere. I would move it along
(24) to the right person, including magazine
(25) subscriptions and other things and brochures and

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(1) *Price*
(2) catalogs for mechanical equipment and electrical
(3) equipment, and it would end up coming to me and
(4) I would push it on to the right person.
(5) Q: But if someone had the correct
(6) address for Mr. Nourain's office and put that
(7) address on the delivery instruction, whether it
(8) was a private delivery service or U.S. Postal
(9) Service thing, then that document would go
(10) directly to Mr. Nourain without going through
(11) you; is that correct?
(12) A: I believe so.
(13) Q: The reason the documents came
(14) through you, if I understand your testimony, is
(15) that the Liberty stationery address was 525
(16) Madison?
(17) A: 575.
(18) Q: 575 Madison and that's where you
(19) were?
(20) A: Exactly. And that's our corporate
(21) office of record, so a lot of people's files, I
(22) presume, would show that as the corporate
(23) address and assume that everybody was under that
(24) umbrella somewhere.
(25) Q: Let me just ask you about this

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(1) *Price*
(2) particular document that you're looking at,
(3) Exhibit 17, which is - well, first let me ask
(4) you a question about these people's names and
(5) addresses. Do you know what the 1808
(6) Correspondence File is?
(7) A: No, I have no idea.
(8) Q: Do you know whether or not Liberty
(9) maintains a file with that name?
(10) A: I never did; whether someone else at
(11) Liberty did, I have no idea.
(12) Q: Do you know whether or not that is
(13) the name of a Pepper & Corazzini file?
(14) A: I have no idea.
(15) Q: And of course Mr. Courtney at
(16) Comsearch is not a Liberty employee, correct?
(17) A: Not that I know of.
(18) Q: What would your practice have been
(19) had you received a document like Exhibit 17 that
(20) was addressed both to you and to Mr. Nourain;
(21) would you have simply taken the document that
(22) you received and forwarded it on to Mr. Nourain,
(23) or would you have retained a copy for yourself
(24) and forwarded a copy on to Mr. Nourain?
(25) A: Almost always I would forward it, if

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(1) **Price**
(2) it was, had to do with technical issues or
(3) operational issues, I would forward it to
(4) operations on the assumption that they may or
(5) may not have gotten a copy even if a name was on
(6) it. Again, very often I was supposed to be the
(7) person distributing information to the party
(8) intended. I would only keep it if it required
(9) some action by me.
(10) **Q:** So, for instance, and I understand
(11) you've already said that you don't know whether
(12) or not you received this particular document,
(13) but if you had received it, I take it that your
(14) customary practice would not necessarily have
(15) been to make a copy of it for your own files in
(16) addition to forwarding it to Mr. Nourain?
(17) **A:** No, we would not. We got such an
(18) enormous quantity of large memos from regulatory
(19) counsel I don't have an office big enough to
(20) keep them. I'm not being facetious, it was
(21) files of paper and I didn't have an FCC license
(22) file. If I did, it was items that required
(23) actions by me where I was instructed to do
(24) something or raise some issue.
(25) **Q:** From time to time, there's been

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(1) **Price**
(2) mention of something called the administration
(3) department.
(4) **A:** Right.
(5) **Q:** Are you familiar, is that a term
(6) that you've used at Liberty?
(7) **A:** Yes, that would be the people in
(8) the - that supervised the mailroom and the
(9) apparatus that would, for example, get typing
(10) done, order paper or provide messenger service
(11) and move things around the system.
(12) **Q:** Do you know if they maintained a
(13) file of correspondence from Pepper & Corazzini?
(14) **A:** I don't know because I've never been
(15) to the room where they operate. I've been in
(16) the mail room, but that's - I'm sure it's not
(17) there. I don't believe they would because they
(18) were administration apparatus for lots of
(19) related companies and they, in that role I don't
(20) know why they would keep files of everything
(21) they copied. They probably have half a dozen
(22) copy machines that copy reams of things that get
(23) pointed in every direction. I can't believe
(24) they'd keep copies of everything they copy or
(25) dispatch.

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(1) **Price**
(2) **Q:** So I take it from your testimony
(3) that the administration department services
(4) other Milstein businesses besides Liberty Cable?
(5) **A:** That's correct, several of them.
(6) **Q:** Was it your understanding that in
(7) the operations department, that is,
(8) Mr. Ontiveros and Mr. Tenety and other people
(9) that worked with them on a daily basis, were
(10) they the ones who maintained files of this kind
(11) of correspondence from your regulatory lawyers?
(12) **A:** I believe they did. That was what I
(13) presumed they were doing is all the documents
(14) were headed to them and they related to
(15) inventories of technical information.
(16) **Q:** And I take it from your answer to
(17) these questions that Liberty maintained no
(18) central file system; is that correct?
(19) **A:** Well, the engineers who work for
(20) Liberty may have, but at the corporate office,
(21) no, to my knowledge, we had no such files there.
(22) **Q:** Now, I believe you were identified
(23) in an interrogatory answer as one of the people
(24) who were responsible for overseeing the
(25) production of documents pursuant to the various

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(1) **Price**
(2) requests that were made to Liberty in this case;
(3) Is that correct?
(4) **A:** I'd have to see precisely what was
(5) said there. That's a pretty broad statement. I
(6) don't know exactly what you're referring to.
(7) **Q:** Okay. We can break it down. You
(8) recall that at various times there were requests
(9) to produce documents that were directed to
(10) Liberty from some of the other parties in this
(11) proceeding, including the Wireless Bureau and
(12) Time Warner and Cablevision?
(13) **A:** Yes.
(14) **Q:** Did you have any role in responding
(15) to those requests?
(16) **A:** In the sense that I would have been
(17) asked do I have any of the documents or
(18) information or knowledge of them, I answered
(19) questions like that or produced files like that
(20) on occasion.
(21) **Q:** And so would it be correct to say
(22) that your role in responding to those requests
(23) was to look through or direct someone to look
(24) through the files, your files that you knew
(25) about, to see whether or not there were

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(1) *Price*
(2) documents that were responsive to the requests?
(3) **A:** That's correct.
(4) **Q:** And I take it, then, that you did
(5) not yourself do any kind of company-wide file
(6) search or file inventory in conjunction with
(7) complying with any of these requests?
(8) **A:** I was not asked to, nor did I do it.
(9) **Q:** Since the time when you first saw
(10) Exhibit 17 - I think you testified that your
(11) counsel showed it to you not long ago - did you
(12) have a look through your files to see if a copy
(13) of it was in there?
(14) **MR. SPITZER:** We're going to give
(15) Mr. Beckner latitude to pursue the
(16) deposition, but the footnote here is very
(17) clear that the scope of the deposition
(18) relates to facts and circumstances
(19) surrounding preparation, knowledge and use
(20) of the memorandum, and I really think that
(21) you are straying.
(22) **MR. BECKNER:** Are you going to let
(23) the witness answer?
(24) **MR. SPITZER:** I will let him answer
(25) this question, but I'm just putting on the

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(1) *Price*
(2) record now that as we get farther and
(3) farther afield, we'll reach the point
(4) shortly where we'll say this is beyond the
(5) scope of the deposition.
(6) **A:** Would you ask the question again.
(7) **MR. BECKNER:** Read it back.
(8) (The record was read.)
(9) **A:** No, I did not, nor was I asked to do
(10) so.
(11) **REQ MR. BECKNER:** I'm going to make a
(12) formal request that you do so now after
(13) this deposition is already scheduled to
(14) recess at 12:30. And just for the record,
(15) in case there's any desire by counsel for
(16) an explanation as to why I'm making such a
(17) request, the answer is that the witness
(18) has testified here and he's executed
(19) declarations saying that he's never seen
(20) it before, he doesn't have any reason to
(21) believe -
(22) **MR. SPITZER:** I don't think that's
(23) what his declaration said.
(24) **MR. BECKNER:** He doesn't recall
(25) seeing it before.

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(1) *Price*
(2) **MR. SPITZER:** Which is a difference,
(3) significant difference.
(4) **MR. BECKNER:** And that he has no
(5) reason to believe that he did not receive
(6) it, but he doesn't know whether he did or
(7) didn't receive it at the time of this
(8) address. And obviously if a copy happens
(9) to be sitting in the file in his office,
(10) that would be probative to some degree as
(11) to whether or not in fact he did receive
(12) it or not receive it.
(13) **Q:** I'd like to direct your attention to
(14) the first page of the memorandum, Mr. Price.
(15) There's a statement made here that says, "Note
(16) that the applications that had been pending for
(17) over two years have finally been granted,
(18) consequently Liberty is no longer operating
(19) under any STAs." And I'll just note for the
(20) record that, unless objected to by counsel, we
(21) can assume that STAs means special temporary
(22) authority from the FCC.
(23) The question I want to ask you, sir,
(24) is whether or not you recall any kind of concern
(25) or even awareness on your part in the period

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(1) *Price*
(2) immediately prior to this memorandum,
(3) February '95 or January '95, about the fact that
(4) there were applications that had been pending
(5) for over two years? I mean the -
(6) **A:** No, I don't recall any special
(7) concern at that particular time. We were always
(8) frustrated in getting our licenses on a timely
(9) basis from the FCC. Whether I was particularly
(10) concerned at that moment in time, I don't
(11) recall.
(12) **Q:** I think you testified in response to
(13) a question in a previous deposition that you
(14) attended a brown bag lunch at the FCC in
(15) Washington.
(16) **A:** I did.
(17) **Q:** Where you discussed with one or more
(18) FCC officials how the process could be speeded
(19) up, the licensing process. And I think you
(20) further testified that at that point, someone
(21) suggested to you that Liberty apply for STA
(22) grants at about the same time they applied for
(23) licenses. Do you recall that?
(24) **A:** Yes, I do. I don't know if they
(25) said apply for STA grants at the same time we

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(1) *Price*
(2) applied for licenses. I believe they said apply
(3) for STAs. Maybe counsel did exactly what you
(4) say, but as I recall, it was we should apply for
(5) STAs. I don't recall exactly what the process
(6) was or whether it was simultaneously with
(7) licenses.
(8) **Q:** Do you remember when you had that
(9) meeting that you testified to? Was it sometime
(10) in '94 or 1995?
(11) **MR. SPITZER:** I think the record of
(12) the prior deposition will establish when
(13) that meeting was. I just don't see the
(14) value of asking the witness at this
(15) point. If you have a date, we can go to
(16) the record and determine, but it just
(17) doesn't bear on this.
(18) **MR. BECKNER:** I'll hold the
(19) question. I can't recall specifically
(20) whether or not he testified as to the
(21) particular date. If he did, I'm not
(22) intending to re-ask the question.
(23) **MR. SPITZER:** I think it's been
(24) asked and answered. There's a date, if
(25) it's material let's find out.

(1) *Price*
(2) **Q:** Do you recognize that handwriting?
(3) **A:** No, I don't.
(4) **Q:** Do you recall whether or not at
(5) about the date of this memorandum, you were
(6) aware of whether or not Liberty was engaged in
(7) any kind of reconciliation of its records and
(8) its FCC lawyers' records about what licenses
(9) Liberty had been granted?
(10) **A:** I would answer the same way I did
(11) before; from my instructions I presume there was
(12) an ongoing process between operations and
(13) Washington counsel, but I was not directly
(14) involved in it.
(15) **Q:** I'm going to show you what's been
(16) marked as Exhibit 19 to your deposition. It's
(17) another memorandum from Jennifer Richter. This
(18) one is dated December 1, 1993, addressed to you,
(19) Mr. Nourain and Mr. Courtney and the 1808
(20) Correspondence File. First page production
(21) number is CP 016197, last page is CP 016224.
(22) **MR. SPITZER:** I'll just state for
(23) the record that the footnote which defined
(24) the parameters of the deposition referred
(25) exclusively to the February 24, '95

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(1) *Price*
(2) **MR. BEGLEITER:** It was testified
(3) to.
(4) **MR. BECKNER:** That's fine. As I
(5) say, I will hold the question and if I
(6) need to ask it again, I will.
(7) **Q:** I'd like to show you what's been
(8) marked as Exhibit 18 to your deposition. And
(9) again just for the record, it's a copy of a
(10) memorandum that appears to be addressed to you,
(11) Mr. Nourain, Thomas Courtney at Comsearch and
(12) the 1808 Correspondence File from Jennifer
(13) Richter dated January 6, 1994. And the
(14) production number on the first page is CP
(15) 016165, and on the last page is CP 016196.
(16) Take whatever time you need to look
(17) at it and tell me if you would, please, whether
(18) or not you recall having seen that before
(19) today.
(20) **A:** No, I don't recall having seen it.
(21) **Q:** If you would turn to some of the
(22) interior pages of the document, in particular
(23) the page with the production number 016184.
(24) There's some handwriting on the page.
(25) **A:** Yes, I see it.

(1) *Price*
(2) memorandum and again, in an effort to give
(3) you the latitude to complete your
(4) deposition and do it without perhaps
(5) unnecessary objections, we'll let you ask
(6) a few questions about this document. But
(7) again, I think it is outside the scope of
(8) the judge's order.
(9) **Q:** I have one question about this
(10) document, sir, and that is, do you recall having
(11) seen it before today?
(12) **A:** No, I do not.
(13) **Q:** And I'm going to show you another
(14) similar document dated April 6, 1993 from
(15) Jennifer Richter addressed to Bruce McKinnon,
(16) Behrooz Nourain, Michael Roth and the 1808
(17) Correspondence File. The first page has
(18) production number CP 016257.
(19) **MR. SPITZER:** 57 or 56?
(20) **Q:** I'm sorry, 56. And the last page
(21) has production number 016280.
(22) And again, I initially want to ask
(23) you if you recall having seen this before
(24) today.
(25) **A:** No, I do not.